HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 27205 OF 2006

Between:

Darshan Vijaysinh Bhatia

..... Petitioner

AND

The Commissioner,
Municipal Corporation of Hyderabad,
Hyderabad and others.

.....Respondents

:: O R D E R ::

Counsel for the petitioner : Shri P.A.Seshu

Counsel for the respondents : Smt.G.Jyoti Kiran

Dated: 29.12.2006

Per G.S.SINGHVI, CJ

In less than ten days of his making representation to the Commissioner, Municipal Corporation of Hyderabad for taking action against the alleged illegal construction being raised by respondent Nos.4 to 8, the petitioner has invoked the jurisdiction of this Court under Article 226 of the Constitution of India and made the following substantive prayer:

> "It is therefore prayed that this Hon'ble Court may be pleased to call for the records pertaining to sanctioned plan permit No.118/87, dated 20.07.2005, File No.104/Open/8/05 and issue an appropriate Writ, Direction or Order more particularly one in the nature of Writ of Mandamus declaring that failure of respondents 1 to 3 in preventing respondents 4 to 8 from making unauthorized illegal constructions in violation of building byelaws, rules, regulations and statutory provisions, deviating from the sanctioned plan is arbitrary, capricious, illegal and violative of statutory provisions, Articles 14 and 300A of the Constitution of India consequently directing the respondents 1 to 3 to pull down and remove unauthorized illegal constructions made by respondents 4 to 8 in Plot No.26, HUDA Enclave, T.S.No.2(P) and 3 (P), Block D, Ward No.9 and T.S.No.1(P), Block F, Ward No.9 of Shaikpet Village, Golconda Mandal, Hyderabad District, Jubilee Hills (covered under MCH Ward 8, Block 2) in the interests of Justice."

At the hearing, Smt.Jyoti Kiran, learned Standing Counsel for Municipal Corporation of Hyderabad invited our attention to xerox copy of notice No.UC/104/Open/8/2005.2006 dated

18.12.2006 issued by the Commissioner, Municipal Corporation of Hyderabad (respondent No.1) under Section 452 of the Hyderabad Municipal Corporation Act, 1955, perusal of which shows that even before making of representation by the petitioner, respondent No.1 initiated action in the matter of the alleged illegal construction being raised by respondent Nos.4 to 8. Therefore, we do not find any justification to entertain the prayer made by the petitioner and dispose of the writ petition with the observation that if the concerned authority of Municipal Corporation of Hyderabad does not take appropriate action in furtherance of notice dated 18.12.2006 within reasonable time, then the petitioner shall be free to avail appropriate legal remedy including the one by filing fresh petition.

As a sequel to disposal of the writ petition, W.P.M.P.No.34951 of 2006 filed by the petitioner for interim relief is dismissed.

G.S.SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

29.12.2006
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